

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Benjamin Mario Soto,

Civil No. 13-640 (DWF/SER)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

John Defendants 1–5, each individually
and in their official capacities as officials and
employees of the Minnesota Bureau of
Criminal Apprehension,

Defendants.

This matter is before the Court upon Plaintiff Benjamin Mario Soto’s (“Plaintiff”) objections (Doc. Nos. 91, 95, 96, 102, 103, 104, 107, 108) to Magistrate Judge Steven E. Rau’s February 13, 2014 Report and Recommendation (Doc. No. 90). Defendants responded to Plaintiff’s objections on March 13, 2014. (Doc. No. 106.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of the parties, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff’s objections. Having carefully reviewed the record, the Court concludes that Plaintiff’s objections offer no basis for departure from the Report and Recommendation.

Plaintiff appears to generally object to the Magistrate Judge’s recommendation that this case be dismissed. (*See generally* Doc. Nos. 91, 95, 96, 102, 103, 104, 107,

108.) The undersigned agrees with the Magistrate Judge's determination regarding Eleventh Amendment immunity and finding that Plaintiff cannot establish a legitimate claim of entitlement to employment with the Minnesota Bureau of Criminal Apprehension in which he has a protected property interest. *See, e.g., Packett v. Stenberg*, 969 F.2d 721, 724-35 (8th Cir. 1992). The Court has also reviewed Plaintiff's Second Amended Complaint. (Doc. No. 77.) Even assuming Plaintiff had properly filed (and leave had been granted to file) his Second Amended Complaint, the Complaint would not survive a motion to dismiss for the reasons stated in the Report and Recommendation. (*See* Doc. No. 90 at 22-24.) The Court thus concludes, as did Magistrate Judge Rau, that Plaintiff has failed to assert a plausible Section 1983 claim against Defendants. Consequently, the Court grants Defendants' motion and dismisses this matter.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff Benjamin Mario Soto's objections (Doc. Nos. [91], [95], [96], [102], [103], [104], [107], [108]) to Magistrate Judge Steven E. Rau's February 13, 2014 Report and Recommendation are **OVERRULED**.

2. Magistrate Judge Steven E. Rau's February 13, 2014 Report and Recommendation (Doc. No. [90]) is **ADOPTED**.

3. Defendants' Motion to Dismiss (Doc. No. [72]) is **GRANTED**.

4. This case is **DISMISSED**.

5. Plaintiff's Motions to Request Proceeding With Only One Filing to the U.S. District Court District of Minnesota (Doc. Nos. [92], [97]) are **DENIED AS MOOT**.

6. Plaintiff's Counsel's Motion to Withdraw (Doc. No. [93]) is **DENIED AS MOOT**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 15, 2014

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge